

Notice of Allowability

Application No.

09/350,043

Examiner

Konata M. George

Applicant(s)

JORDAN, FREDERICK L.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to July 22, 2004.
2. ☒ The allowed claim(s) is/are 1-16, 19, 21-28, 30-41 and 51-102.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All ☐ Some* ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

SHELLEY A. DODSON
PRIMARY EXAMINER

DETAILED ACTION

Claims 1-16, 19, 21-28, 30-41 and 51-102 are pending in this application.

Action Summary

1. Examiner acknowledges the cancellation of claims 42-49. Therefore, any and all rejections or objections directed towards them are hereby withdrawn.
2. Examiner acknowledges the addition of claims 54-102.
3. The objection to page 12, lines 16 and 19 of the specification as containing hyperlinks is hereby withdrawn as applicant has removed the hyperlinks from the specification.
4. The rejection of claim 19 under 35 U.S.C. 112, first paragraph is hereby withdrawn as applicant has amended the claim to correct the new matter rejection and the use of the term "delivery agent".
5. The rejection of claims 1-16, 19, 21-28 and 30-53 under 35 U.S.C. 112, second paragraph as being indefinite is hereby withdrawn as applicant has amended the claims to recite that each of the oil are ethoxylated.
6. The rejection of claim 13 under 35 U.S.C. 112, second paragraph as being indefinite and vague is hereby withdrawn as applicant has amended the claim to remove the vague and indefinite language.

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Statement of Reasons for Allowance

7. The following is an examiner's statement of reasons for allowance:

The claims are allowable over the cited prior art because the prior art does not teach, disclose nor make obvious a transdermal delivery system comprising: (a) an ethoxylated lipid selected from the group consisting of an ethoxylated castor oil, an ethoxylated jojoba oil, an ethoxylated corn oil, and an ethoxylated emu oil; (b) an alcohol mixed with the ethoxylated lipid so as to form a penetration enhancer; (c) an aqueous adjuvant mixed with the penetration enhancer, wherein the aqueous adjuvant comprises *Aloe Vera*; and (d) a delivery agent mixed with the aqueous adjuvant and the penetration enhancer.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. Claims 1-16, 19, 21-28, 30-41 and 51-102 are allowed.

Telephone Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is

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(571) 272-0613. The examiner can normally be reached from 8AM to 6:30PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (571) 272-0887. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Konata M. George



SHELLEY A DODSON
PRIMARY EXAMINER